

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2113 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

KALUBHAI RAJEBHAI SIPAI

Versus

DISTRICT MAGISTRATE & OTHERS

Appearance:

MR BANNA DATTA for Petitioner
MR SS PATEL ASST. GOVERNMENT PLEADER
for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 10/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 1st December, 1998 made by the District Magistrate, Bhavnagar under the powers conferred upon him under Sub-section (2) of Section 3 of the Gujarat

Prevention of Anti-Social Activities Act, 1985
(hereinafter referred to as the "Act").

3. The petitioner is alleged to be a " dangerous person " within the meaning of Section 2(c) of the Act and his activities are found to be prejudicial to the maintenance of public order. Four offences punishable under Chapter XVI of Indian Penal Code are registered against the petitioner and are pending trial before the concerned Courts. Besides, four persons, on the assurance of anonymity, have given the statements in respect of the nefarious activities of the petitioner and its adverse effect on public tranquility and even tempo of life.

4. It is contended that the petitioner had been arrested in each of the offences registered against him and was released on bail by the orders made by the competent courts. The applications for release on bail made by the petitioner and the orders made thereon in each of the said cases are vital documents and the detaining authority also has, while recording the subjective satisfaction, relied upon the same. It was, therefore, imperative that all the applications for bail made by the petitioner and the orders made thereon be furnished to the petitioner along with the grounds of detention. However the order made in respect of C.R.No. 138/97 and the application made in respect of C.R.No.186/97 have not been furnished to the petitioner. The subjective satisfaction recorded by the detaining authority is, therefore, vitiated, and the continued detention of the petitioner is unwarranted. The averment is uncontroverted. It is conceded that above referred two documents have not been furnished to the petitioner along with the grounds of detention. It is a settled proposition of law that the applications for release on bail and the orders made thereon are vital documents and are required to be furnished to the detenu along with the grounds of detention. In the present case, the same having not been done, the continued detention of the petitioner is vitiated.

5. The petition is allowed. The order dated 1st December, 1998 (Annexure :A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forth with.

Date:10/8/1999.

(ccshah) -----